United Nations A/HRC/33/L.27/Rev.1

General Assembly

Distr.: Limited
28 September 2016

Original: English

Human Rights Council
Thirty-third session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Austria,* Belgium, Brazil,* Chile,* Colombia,* Costa Rica,* Cyprus,* France, Georgia, Germany, Iceland,* Ireland,* Italy,* Liechtenstein,* Mexico, Monaco,* Panama, Peru,* Slovakia,* the former Yugoslav Republic of Macedonia, Ukraine,* Uruguay:* draft resolution

33/... Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Reaffirming its decision 2/112 of 27 November 2006 and resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008, 10/15 of 26 March 2009, 13/26 of 26 March 2010, 19/19 of 23 March 2012, and 25/7 of 27 March 2014, 29/9 of 2 July 2015 and 31/3 of 23 March 2016, and Commission on Human Rights resolutions 2003/68 of 25 April 2003, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005, recalling General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, 66/171 of 19 December 2011, 68/178 of 18 December 2013, 70/148 of 17 December 2015 and 70/291 of 1 July 2016, and welcoming the efforts of all relevant stakeholders to implement them,

1. *Calls upon* States to ensure that any measure taken to counter terrorism and violent extremism conducive to terrorism complies with international law, in particular international human rights law, international refugee law and international humanitarian law;

2. *Expresses serious concern* at the violations of human rights and fundamental freedoms and of international refugee law and international humanitarian law in the context of countering terrorism and violent extremism conducive to terrorism;

* State not a member of the Human Rights Council.

GE.16-16737(E)
1616737

Please recycle

3. *Affirms* its unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism conducive to terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, and of the financing and other forms of direct support of terrorism, as unjustifiable, in the light of, in particular, their detrimental effects on the enjoyment of human rights and on democratic societies;

4. *Renews* its commitment to strengthen international cooperation to prevent, counter and combat terrorism and, in that regard, calls upon States and other relevant parties, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars, which reaffirm, inter alia, respect for human rights for all and the rule of law as being the fundamental basis of the fight against terrorism;

5. *Stresses* the responsibility of States to protect persons in their territory against such acts, in full compliance with their obligations under international law, and in particular international human rights law, international refugee law and international humanitarian law;

6. *Reaffirms* its respect for the sovereignty, territorial integrity, independence and unity of all States in accordance with the purposes and principles of the Charter of the United Nations, and stresses that all human rights are universal, indivisible, interdependent and interrelated, and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis;

7. *Also reaffirms* the importance of ensuring that the protection of human rights and fundamental freedoms and respect for the rule of law as essential components of the work and strategies of the United Nations for supporting Member States in the context of the fight against terrorism and violent extremism conducive to terrorism;

8. *Deeply deplores* the suffering caused by terrorism to the victims and their families, in particular women and children, and, while stressing the need to promote and protect the rights of victims of terrorism, reaffirms its profound solidarity with them, and stresses the importance of providing them with proper support and assistance while taking into account, inter alia, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth, in accordance with international law;

9. *Emphasizes* the need to ensure that victims of terrorism are treated with dignity and respect, stresses the need to promote international solidarity in support of the victims of terrorism, and recognizes the role that victims of terrorism can play, including in countering the appeal of terrorism;

10. *Calls upon* States, while countering terrorism, to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to justice, due process and an effective remedy, and that victims of human rights violations receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence;

11. *Urges* States, while countering terrorism, to respect and protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of those rights;

12. *Stresses* the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems, in accordance with applicable international law, as a fundamental basis of any strategy to counter terrorism and violent extremism conducive to terrorism;

13. *Strongly encourages* relevant United Nations agencies to take into account in their technical assistance to counter terrorism, whenever appropriate, the elements

necessary for building national capacity in order to strengthen criminal justice systems and the rule of law;

14. *Reaffirms* that terrorism and violent extremism cannot and should not be associated with any religion, nationality, civilization or ethnic group;

15. *Urges* States to ensure that measures taken to counter terrorism and violent extremism conducive to terrorism are not discriminatory, and not to resort to profiling based on stereotypes founded on ethnic, racial or religious grounds or any other ground of discrimination prohibited by international law, and regrets the fact that certain measures taken to counter terrorism and violent extremism conducive to terrorism have been implemented in a way that improperly targets specific groups;

16. *Welcomes* the work carried out by the special procedures of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism;

17. *Recognizes* the important role of education, respect for cultural diversity, preventing and combating discrimination, employment and inclusion in helping to prevent terrorism and violent extremism conducive to terrorism, and welcomes the engagement of relevant United Nations agencies with Member States to implement strategies to prevent violent extremism conducive to terrorism through education;

18. *Also recognizes* the importance of preventing violent extremism conducive to terrorism, and in this regard recalls General Assembly resolution 70/254 of 12 February 2016, in which the Assembly welcomed the initiative by the Secretary-General and took note of his Plan of Action to Prevent Violent Extremism, and resolution 70/291, in which it encouraged United Nations entities, in line with their mandates, to implement relevant recommendations of the Plan of Action, including by providing technical assistance to Member States upon their request, and invites Member States and regional and subregional organizations to consider developing national and regional plans of action to prevent violent extremism conducive to terrorism;

19. *Acknowledges* that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism;

20. *Calls upon* States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights;

21. *Urges* States to ensure that gender equality and non-discrimination are taken into account when shaping, reviewing and implementing all counter-terrorism measures;

22. *Calls upon* States to highlight the important role of women in countering terrorism and violent extremism conducive to terrorism, and to consider, when appropriate, the impact of counter-terrorism strategies on women's human rights and women's organizations, and to seek consultations with women and women's organizations when developing strategies to counter terrorism and preventing violent extremism conducive to terrorism;

23. *Recognizes* the important role of religious leaders and institutions, local communities and community leaders in preventing and countering terrorism and violent extremism conducive to terrorism;

24. *Reiterates* that, given their potential status as victims of terrorism and of other violations of international law, all children alleged as, accused of or recognized as

having infringed the law, particularly those who are deprived of their liberty, as well as child victims and witnesses of crimes, should be treated in a manner consistent with his or her rights, dignity and needs, in accordance with applicable international law, in particular the obligations set out under the Convention on the Rights of the Child, and, bearing in mind relevant international standards on human rights in the administration of justice in this regard, urges Member States to take relevant measures to effectively reintegrate children formerly associated with armed groups, including terrorist groups;

25. *Urges* all States to respect and protect the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, including in the context of digital communication, and calls upon States, while countering terrorism and preventing violent extremism conducive to terrorism, to review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law, and urges them to take measures to ensure that any interference with the right to privacy is regulated by law, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory, and that such interference is not arbitrary or unlawful, bearing in mind what is reasonable to the pursuance of legitimate aims;

26. *Emphasizes* the key importance of the full respect for the right to freedom of opinion and expression in efforts to fight terrorism and violent extremism conducive to terrorism, and also in countering the propaganda of terrorist and extremist groups, bearing in mind the provisions set out in the International Convention on Civil and Political Rights;

27. *Urges* States to ensure that any measure taken or means employed to counter terrorism and violent extremism conducive to terrorism, including the use of remotely piloted aircraft, complies with their obligations under international law, including international human rights law and international humanitarian law;

28. *Also urges* States, while undertaking counter-terrorism activities, to respect their international obligations regarding humanitarian actors and to recognize the key role played by humanitarian organizations in areas where terrorist groups are active;

29. *Further urges* States to undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of breaches of their obligations under international law as a result of any measures taken or means employed to counter terrorism, and to ensure accountability for those responsible for violations that amount to crimes under national or international law;

30. *Notes with concern* measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the unlawful deprivation of the right to life, and other fundamental freedoms, such as freedom of peaceful assembly and association, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures;

31. *Stresses* that all measures used in the fight against terrorism and violent extremism conducive to terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law,

including international human rights law, international refugee law and international humanitarian law;

32. *Urges* States, while countering terrorism and preventing violent extremism conducive to terrorism, to respect the rights to be equal before the courts and tribunals and to a fair trial, as provided for by international law, including international human rights law, such as article 14 of the International Covenant on Civil and Political Rights and, as applicable international humanitarian law and international refugee law;

33. *Also urges* States to take measures to ensure that counter-terrorism laws and implementing measures are consistent with and are applied in a manner that fully respects the rights enshrined in articles 10 and 11 of the Universal Declaration of Human Rights and further codified in articles 14 and 15 of the International Covenant on Civil and Political Rights, in particular to ensure respect for the principle of certainty of the law by clear and precise provisions;

34. *Reiterates its concern* with regard to measures that can undermine human rights and the rule of law, and urges all States to take all steps necessary to ensure that persons deprived of their liberty, regardless of the place of arrest or detention, enjoy the guarantees to which they are entitled under international law, including review of their detention and other fundamental judicial guarantees;

35. *Recalls* General Assembly resolution 60/288 of 8 September 2006, by which the Assembly adopted the United Nations Global Counter-Terrorism Strategy, and welcomes Assembly resolution 70/291 on the review of the Strategy, in which it called upon Member States and the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

36. *Encourages* Member States, United Nations entities, regional and subregional organizations and relevant actors to consider instituting mechanisms to involve youth in the promotion of a culture of peace, justice and human development, and ethnic, national and religious tolerance by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society;

37. *Takes note* of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;[1]

38. *Welcomes* the report of the United Nations High Commissioner for Human Rights on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism;[2]

39. *Requests* the Special Rapporteur, in accordance with his mandate, to continue to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council;

40. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to urgent appeals and providing the information requested, and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

[1] A/HRC/31/65.
[2] A/HRC/33/29.

41. *Encourages* United Nations bodies, agencies, funds and programmes involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

42. *Requests* the High Commissioner and the Special Rapporteur to contribute further, appropriately, to the ongoing discussion on the efforts of States Members of the United Nations to put in place adequate human rights guarantees to ensure fair and clear procedures, in particular with regard to placing individuals and entities on, and removing them from, terrorism-related sanctions lists;

43. *Recalls* that the General Assembly, in its resolution 70/148, recognized the need to continue to ensure that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomed and encouraged the ongoing efforts of the Security Council in support of those objectives, including by supporting the enhanced role of the Office of the Ombudsperson and continuing to review all the names of individuals and entities in the regime, while emphasizing the importance of sanctions in countering terrorism;

44. *Stresses* the importance that relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those that are participating in the Counter-Terrorism Implementation Task Force, that provide technical assistance relating to the prevention and suppression of terrorism to consenting States, include, as appropriate and where consistent with their mandates, respect of international human rights law and, as applicable, international humanitarian law and international refugee law, as well as the rule of law, as an important element of the technical assistance that they offer to States in the area of counter-terrorism, including by drawing on the advice of, and otherwise ensuring ongoing dialogue with, the special procedures of the Human Rights Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

45. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Human Rights Council under agenda item 3, in conformity with its annual programme of work.